

## Chapter NR 19

### MISCELLANEOUS FUR, FISH, GAME AND OUTDOOR RECREATION

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**Note:** Corrections made under s. 13.93 (2m) (b) 7., Stats., Register, January, 1999, No. 517.

#### Subchapter I — Miscellaneous

**NR 19.001 Definitions.** (1) “Active service”, for purposes of s. 29.194, Stats., means full time employment as a member of the armed services and does not include annual summer training by members of the national guard or reserves.

(2) “Application” means a written request for an approval required to do business in this state as defined in s. 560.41 (2), Stats., completed in the form required by and acceptable to the department and accompanied by additional plans, information and the appropriate fee.

(3) “Approval” means a license, permit or other form of approval required from the department to conduct business activities in Wisconsin.

(5) “Carcass” means the dead body of any wild animal to which it refers, including the head, hair, skin, plumage, skeleton, or any other part thereof.

(5m) “Daily bag limit” as used in s. NR 19.275, means the maximum number of a turtle species or group of turtle species which may be taken by a person each day.

(6) “Environmental consulting organization” means an individual or consortium of individuals funded to provide consulting services including status assessment of wild animals and their habitats.

(6m) “Fish, fur, game seal” or “seal” means a numbered, non-reusable, locking device bearing the embossed inscription Fish, Fur, Game F—(number) which is issued by the department.

(7) “File” or “filed” means receipt by the department of a written notice, verified claim or other document.

(7m) “Hooking”, as used in s. NR 19.275, means any activity which utilizes a dull-pointed, metal, barbless hook attached to a staff to remove a turtle from a body of water.

(8) “In the process of being mounted” means, for the purposes of the sale of part or all of a private collection, as authorized by s. 29.354, Stats., a physical process which includes taxidermy work accomplished on the carcass, including at least removal of the skin.

(9) “Maintain records” means, for the purpose of s. 29.503 (5), Stats., to legibly prepare triplicate records and retain at least one copy of each record at the place of business for inspection purposes.

(10) “Mount”, “mounted”, or “mounting” means, for the purposes of ss. 29.354 (3) and 29.506 (1), Stats., and this section, to prepare and preserve the head, skin or carcass in a lifelike manner.

(11) “Natural resources”, for purposes of s. 23.095, Stats., includes wild rice growing in navigable lakes.

(12) “Navigable lake”, for the purpose of interpreting s. 29.607, Stats., means a natural navigable lake or a flowage or pond, or portion of a flowage or pond, where the bed is in town, county, city, village, state or federal ownership.

(12m) “Possession limit” as used in s. NR 19.275, means the maximum number of a turtle species or group of turtle species which may be possessed by a person at any time.

(13) “Private collection” means, for the purposes of s. 29.354, Stats.:

(a) A privately owned collection mounted for the purpose of display, exhibition or personal use and does not include wild animals mounted for the purpose of sale. In determining whether a wild animal was mounted for the purpose of sale, at a minimum, factors to be considered are the intent of the owner at the time of mounting, the length of time from mounting to sale, display or use of the mounted wild animal prior to sale, frequency of such sales by the owner and the reasons provided by the owner for the sale. This does not preclude the ultimate sale of a mount from a private collection.

(b) A mounted collection sold upon the death of the owner.

(14) “Protected wild animals” means those animals for which a closed season, bag limit, size limit or possession limit has been provided by statute or administrative rule, and includes:

(a) Nongame species unless specifically designated as unprotected by the department;

(b) Game fish, game animals, game birds and fur bearing animals during closed seasons;

(c) Endangered and threatened species listed in ch. NR 27.

(15) “Records” means, for the purpose of s. 29.506 (7) (b), Stats., the taxidermist permit, sales forms, information records,

records of deliveries and shipments, and the identification tag as described in s. 29.506 (5) (b), Stats.

(16) "Stationed", for purposes of s. 29.194, Stats., means residing in Wisconsin in compliance with military orders.

(16m) "Turtle", as used in this chapter, means a reptile having horny, toothless jaws and a body enclosed in a bony or leathery shell into which the head, limbs and tail may be partially or fully withdrawn, and includes parts of turtles and turtle eggs.

(17) "Unprotected wild animals" means those animals for which no closed season, bag limit, size limit or possession limit has been provided by statute or administrative rule.

(18) "Verified" means to confirm or establish by oath, normally in the form of a notarized statement.

(19) "Wild animal" means any mammal, bird, fish, or other creature of a wild nature endowed with sensation and the power of voluntary motion.

**History:** Cr. Register, September, 1978, No. 273, eff. 10-1-78; r. and recr. Register, January, 1980, No. 289, eff. 2-1-80; cr. (5m) and am. (7), Register, August, 1980, No. 296, eff. 9-1-80; r. (2), (3), (4), (5) and (6), Register, January, 1984, No. 337, eff. 2-1-84; renum. (1) to be (3), cr. (1), (2), (4) and (4m), Register, August, 1985, No. 356, eff. 9-1-85; cr. (2m), Register, August, 1986, No. 368, eff. 9-1-86; cr. (2f), (3m), (3p), (3t), (5), (6) and (9), Register, March, 1987, No. 375, eff. 4-1-87; cr. (2e), Register, June, 1988, No. 390, eff. 7-1-88; renum. (1) to (9) to be (2) to (15) and (17) to (19), cr. (1) and (16), Register, October, 1988, No. 394, eff. 11-1-88; emerg. r. (4), eff. 10-16-89; cr. (6m), Register, March, 1990, No. 411, eff. 4-1-90; r. (4), Register, May, 1990, No. 413, eff. 6-1-90; cr. (5m), (7m), (12m) and (16m), Register, February, 1997, No. 494, eff. 3-1-97.

**NR 19.01 Approval deadlines.** (1) **GENERAL.** Upon receipt of an application for an approval required to conduct business activities under ch. 29, Stats., ss. 30.50 to 30.54, 350.12 and 350.125, Stats., the department shall review and issue a decision on the application within 10 business days unless a different period is otherwise provided in subs. (2) to (6) or other statutes or rules.

(2) **SPECIFIC APPROVAL DEADLINES.** The following approvals will be acted on as follows:

APPROVALS	BUSINESS DAYS
(a) Commercial fishing licenses issued under s. 29.519, Stats.	50
(b) Private fish hatchery licenses issued under s. 29.733, Stats.	90
(c) Pheasant and quail farms under s. 29.865, Stats. ( <b>Note:</b> 2001 Wis. Act 56 repealed s. 29.865, Stats.)	30
(d) Game bird and animal farms under s. 29.867, Stats.	30
(e) Fur animal farms under s. 29.869, Stats. ( <b>Note:</b> 2001 Wis. Act 56 repealed s. 29.869, Stats.)	30
(f) Deer farms under s. 29.871, Stats.	30
(g) Deer dealer licenses under s. 29.871, Stats.	30
(h) Wildlife exhibit licenses under s. 29.877, Stats.	30
(i) Approvals for falconry, wildlife rehabilitation and chemical control of birds and animals under ss. 23.09, 29.053, 29.088 and 29.601, Stats.	30
(j) Boat licenses under s. 30.52, Stats.	30
(k) Snowmobile licenses under ss. 350.12 and 350.125, Stats.	30

(2m) **APPROVAL TO REMOVE WILD ANIMALS CAUSING DAMAGE.** Permits to remove wild animals causing damage shall be issued within 48 hours of receipt of a written complaint. Permits may be granted orally, but shall be confirmed in writing by the department.

(3) **STANDARDS AND CONDITIONS.** If the department requires standards or conditions to be met or complied with prior to issuance of an approval, the time periods for issuing an approval do not begin to run until the applicant has met such standards or conditions as determined by the department.

Example: An applicant for a wildlife exhibit, game, bird and animal farm, or deer farm license is required to meet pen specifications or fencing requirements before the time system for issuance of approvals begins to apply.

(4) **WILDLIFE SURVEYS.** If a survey of wildlife on the property is required, the time periods for issuing an approval do not apply until completion of that survey. The survey shall be completed within 30 business days from the time of year that, in the opinion of a professional department wildlife manager, is optimum for determining accurate wildlife populations. At the time the application is received, the department shall inform the applicant of the date by which the survey will be completed.

(5) **ENVIRONMENTAL IMPACT.** If an environmental impact analysis, environmental impact report or environmental impact statement is required under ss. 1.11 and 23.11 (5), Stats., and ch. NR 150, the time periods for issuing an approval do not apply until ss. 1.11 and 23.11 (5), Stats., and ch. NR 150 have been complied with.

(6) **OTHER APPROVALS.** The time for an approval for an activity under sub. (1) will not begin to run until other approvals for that activity are obtained.

**History:** Cr. Register, August, 1985, No. 356, eff. 9-1-85; cr. (2) (l) and (m), Register, July, 1987, No. 379, eff. 8-1-87; emerg. cr. (2) (n), eff. 9-21-88; cr. (2) (n), Register, January, 1989, No. 397, eff. 2-1-89; emerg. r. (2) (l) to (o), cr. (2m), eff. 10-16-89; r. (2) (l) to (n), cr. (2m), Register, May, 1990, No. 413, eff. 6-1-90.

## NR 19.02 Handling fees for certain approvals.

(1) **PURPOSE.** This section establishes and describes handling fees which may be charged for processing requests for approvals ordered by mail, telephone or electronic means.

(2) **APPLICABILITY.** The provisions of this section apply to licenses, permits, stamps and other approvals issued under the authority of ch. 29, Stats., and offered by the department for sale under extended purchasing options and ordered by mail, telephone, or electronic means.

(3) **DEFINITIONS.** As used in this section:

(a) "Approval" has the meaning in s. 29.001 (12), Stats.

(b) "Department" means the department of natural resources.

(c) "Extended purchasing options" means the ability to purchase an approval in person and by mail, telephone or electronic means.

(d) "Order" means a single request from a person for an approval or approvals.

(4) **FEE FOR HANDLING APPLICATIONS FOR CERTAIN APPROVALS.**

(a) In addition to the obligation to pay all fees imposed under s. 29.563, Stats., a person who orders an approval by mail, telephone or electronic means is required to pay a handling fee established in accordance with this section for each order.

(b) The handling fee for each order shall be established by the department based upon projected mailing costs, credit transaction fees, credit verification fees, personnel costs, telecommunications costs and lock box charges associated with processing the order and may not exceed \$3.00 per order.

(c) The handling fee under this section shall be established consistent with par. (b) annually prior to April 1 by the secretary of the department.

(d) An order submitted by mail, telephone, or electronic means without payment of all associated fees required under s. 29.563, Stats., and the handling fee in a manner acceptable by the department is not a complete application for the approval and the order will be returned.

(e) If an application for an approval is denied, the handling fee is not refundable.

**History:** Cr. Register, July, 1996, No. 487, eff. 8-1-96.

**NR 19.025 Waivers for an educational recreational activity.** (1) **PURPOSE.** This section contains rules for the procedures required to apply to the department for a waiver of approvals, applicable fees and other requirements pursuant to s. 29.197 (2) and (5), Stats., for an educational, recreational and skills development activity that is sponsored or approved by the department. It further explains the reasonable conditions, limitations and restrictions that will be necessary to allow for approval of the waiver.

(2) **DEFINITIONS.** As used in this section:

(a) "Accompany" means be in immediate presence of the novice participant.

(b) "Educational outdoor skills activity" means a course to teach novice participants how to hunt or fish.

(c) "Mentor" means a person who is instructing or assisting with teaching of the educational outdoor skills activity.

(d) "Novice participant" means for hunting any person who is 11 years old or older, who has had less than 2 years of hunting experience. For fishing, it means any person who is 5 years of age or older who has less than 2 years of fishing experience.

(e) "Substantial loss of revenue" means a loss of fishing and hunting license fees from persons who are not novice participants.

(3) **GENERAL; CONDITIONS, LIMITATIONS AND RESTRICTIONS.** (a) An applicant shall submit a request for a waiver at least 30 days prior to the event on forms provided by the department.

(b) A written course outline shall be submitted along with the request for waiver for approval by the department.

(c) There shall be a minimum of 4 hours of classroom and field instruction prior to the hunting or fishing activity.

(d) A novice participant may not obtain more than one waiver of fees for the same hunting or fishing instructional activity.

(e) Where applicable, written authorization from host landowner shall be obtained and submitted with the application. It shall include the legal description of the lands on which the activity will be conducted. If department lands are to be used, the written approval of the property manager shall be obtained.

(f) Unless otherwise approved, the novice participants and mentors participating in the activity shall comply with all natural resource rules and regulations.

(g) Waivers may not be issued that allow for the shooting of wild animals or the catching of fish by a mentor or instructor.

(h) Novice participants may not be charged a fee which exceeds the costs of materials used in the course, equipment rental, meals and overnight accommodations.

(i) Upon receipt of information indicating prior illegal activity relevant to a mentor's ability to properly assist or instruct novice participants, the department may make appropriate inquiry into criminal history, character and background of mentoring applicants and determine their suitability for the proposed activity.

(j) One of the mentors shall carry the department approved waiver with list of participants during the educational recreational activity.

(k) Waivers under this section shall only apply to novice participants.

(L) The waiver of the approval and applicable fees will not result in a substantial loss of revenue to the department.

**Note:** Applications may be obtained from any department office.

(4) **SPECIAL HUNTING CONDITIONS, LIMITATIONS AND RESTRICTIONS.** (a) During the field portion of the hunting activity a mentor shall accompany a novice participant.

(b) During hunting skills field activities the area shall be posted with a sign advising of the activity.

(c) At least one mentor shall be a certified hunter education instructor.

(d) Mentors shall have at least 5 years of hunting experience.

(5) **SPECIAL FISHING CONDITIONS, LIMITATIONS AND RESTRICTIONS.** (a) During the field portion of the fishing activity there may be no more than 3 novice participants per mentor.

(b) Non-licensed mentors may be involved with assisting but will need approvals if they take part in the actual fishing activity unless they are enrolled as a novice participant.

(6) **STATE PARKS.** Waivers may be issued that allow the following activities in state parks:

(a) Possession of loaded and uncased firearms.

(b) Possession of strung and uncased bows.

(c) Shooting of deer and turkey on properties opened for the hunting of these species under s. 29.089 (3), Stats.

(d) Use of unleashed dogs.

(7) **EXEMPTIONS.** This section does not apply to special hunting events established under s. NR 10.01.

**History:** Cr. Register, July, 1997, No. 499, eff. 8-1-97.

**NR 19.03 Control of muskrats on cranberry marshes.** (1) The owner or lessee of any improved cranberry marsh area shall comply with s. 29.885, Stats.

(3) The provisions of this section shall not apply to any person or persons who own or are interested in a cranberry marsh situated in the same area wherein said owners are the licensees of a muskrat farm or in which such person or persons have an interest.

(4) The department or its authorized agents may assist any owner or operator of improved cranberry marsh areas with the removal of muskrats from areas that have been damaged, or are being damaged by such muskrats, wherein they believe that the muskrats can be taken alive and removed to other localities deemed advisable by the department.

(5) Any such cranberry marsh areas where muskrats are being controlled as provided in this section shall be open to the inspection of the department or its authorized agents at any time.

**History:** 1-2-56; r. (2), Register, August, 1966, No. 128, eff. 9-1-66; renum. from WCD 19.03 to be NR 19.03, and am. (1), (4) and (5), Register, April, 1971, No. 184, eff. 5-1-71; r. and recr. (1), Register, August, 1979, No. 284, eff. 9-1-79.

**NR 19.05 Release and importation of fish.** (1) No person, persons, firm or corporation may bring into the state to introduce or release or cause to be introduced or released in any manner into the inland or outlying waters any fish or the eggs or spawn thereof, without first applying for in writing and receiving a written permit from the department or its duly authorized agents. The permit shall be granted only after the department or its agents investigates and inspects the fish or the eggs or spawn thereof as it deems necessary to determine that the introduction or release will not be detrimental in any manner to the conservation of the natural resources of the state. Inspection may include removal of reasonable samples of fish and eggs for biological examination. The responsibility of licensees holding private fish hatchery licenses is stated in ss. 29.735 and 29.736, Stats.

(2) Permits to import fish or eggs of the family Salmonidae (trout, char, salmon) shall be issued at no charge to a person who has applied on a special form furnished by the department. Such permit will be issued only if the immediate source of fish or eggs is certified free of infectious hematopoietic necrosis, viral hemorrhagic septicaemia, whirling disease, enteric redmouth and Ceratomyxa shasta, except that eggs from wild stocks do not have to be certified free of whirling disease. Certification shall be made in the state of origin and may be accomplished only by biologists recognized by the department as competent in diagnosis of fish diseases. For informational purposes the source of fish or eggs will also be inspected for infectious pancreatic necrosis, kidney disease and bacterial furunculosis. Inspecting biologists will submit a written inspection report to the department. A copy of the importation permit must accompany each shipment of fish or eggs.

**History:** 1-2-56; am. (2), Register, October, 1969, No. 166, eff. 1-1-70; renum. from WCD 19.05 to be NR 19.05, and am. (1), (2) and (3), Register, April, 1971, No.



184, eff. 5-1-71; r. and recr. Register, August, 1977, No. 260, eff. 9-1-77; CR 03-030; am. (1) Register October 2003 No. 574, eff. 11-1-03.

**NR 19.06 Fish nets and traps. (1)** It shall be unlawful for any person or persons to take, catch or kill fish or fish for fish of any species when such fish are being held in any fish net, fish holding net, fish trap, fish pond, either artificial or natural, or any structure or net placed in any of the waters of the state by the department or under its authority for the purpose of taking or holding fish therein at any time, or for any person or persons to lift, molest, cut or destroy any fish net, fish holding net, fish trap, fish pond, or any structure or net placed in any of the waters of the state by the department or under its authority for the purpose of taking or holding fish therein.

**(2)** It shall be unlawful for any person or persons to take, catch, capture or kill fish or pursue fish in any fishing operations within 500 feet above or 500 feet below any net, dam or weir wherein the state of Wisconsin is fishing or holding fish for commercial, scientific, or biological purposes, when the area is properly posted by the department.

**(3)** No provisions in this section shall prohibit the department, its agents, deputy conservation wardens or representatives of the division of fish, game and enforcement of such department from taking any of the fish mentioned in any of the sections of this order at any time or from lifting, setting, or transferring any nets or structures used in holding or capturing fish, wherein they deem it advisable and necessary to promote the department fish management program.

**History:** 1-2-56; am. (1), Register, December, 1960, No. 60, eff. 1-1-61; am. (1), Register, December, 1961, No. 72, eff. 1-1-62; renum from WCD 19.06 to be NR 19.06 and am. (1), (2) and (3), Register, April, 1971, No. 184, eff. 5-1-71.

**NR 19.07 Shooting preserves, pheasant and quail farms. History:** 1-2-56; r. and recr. Register, November, 1959, No. 47, eff. 12-1-59; r. and recr. (7), Register, August, 1961, No. 68, eff. 9-1-61; am. (2), (7), (a) and (b); and (8) (b) and (e), Register, January, 1964, No. 97, eff. 2-1-64; am. (8) (b) and (d) and cr. (10), Register, February, 1968, No. 146, eff. 3-1-68; renum from WCD 19.07 to be NR 19.07 and am. (1), (3), (4), (6), (7) (a) and (c), (8) (b), (c), (d), (e) and (f), (9) and (10), Register, April, 1971, No. 184, eff. 5-1-71; emerg. am. (2) eff. 8-9-72; am. (2), (5), (6), (8), (b), (c) and (e), r. (9), Register, September, 1972, No. 201, eff. 10-1-72; am. (2), (4), (5), (8) and (10), r. and recr. (3), Register, February, 1977, No. 254, eff. 3-1-77; am. (8) (a), Register, April, 1978, No. 268, eff. 5-1-78; corrections in (5) and (8) (a) made under s. 13.93 (2m) (b) 14., stats., Register, May, 1985, No. 353; r. (10), Register, July, 1988, No. 391, eff. 8-1-88; cr. (intro.), Register, September, 1999, No. 525, eff. 10-1-99; CR 03-030; r. Register October 2003 No. 574, eff. 11-1-03.

**NR 19.09 Wild rice conservation. (1) REMOVAL OR DESTRUCTION OF WILD RICE.** (a) No person may remove or destroy by hand, mechanical or chemical means wild rice growing in navigable lakes unless the department has approved the removal or destruction under par. (b).

(b) In addition to harvest in accordance with s. 29.607, Stats., and subs. (2) to (8), the department may authorize by written approval the removal of wild rice growing in navigable lakes upon a finding that:

1. The wild rice resource in the navigable lake will not be substantially affected. The department may consider cumulative effects of an approval on such a lake under this paragraph; and
2. The removal or destruction is necessary to allow reasonable access to the lake by the riparian owner.

(c) Persons requesting an approval under this subsection, shall apply on department forms and provide information requested by the department.

**Note:** The forms may be obtained from department regional offices.

**(2)** A closed season is established for the harvesting or gathering of wild rice in the following described areas at all times except as hereinafter provided and it is unlawful for any person to harvest or gather wild rice in any manner or at any time during such closed season.

**(3)** The secretary is authorized and directed, after determining by investigation and study that the wild rice is ripe, to designate the open season for harvesting or gathering wild rice in each of the areas described in sub. (4). The open season in any area may con-

tinue in effect for not more than 60 days. The open season in any area as designated by the secretary pursuant to this subsection shall be put into effect by posting of proper notice of the open season on the shores of, and at places of public access to, the lakes and streams in which the open season is effective at least 24 hours before the beginning of the open season.

**(4)** There is no closed season for the harvesting of wild rice in any other area of the state of Wisconsin not herein described:

(a) *Ashland county.* All waters north of highway 2 including outlying waters.

(aa) *Barron county.* Bear lake, Beaver Dam lake and Red Cedar lake.

(b) *Bayfield county.* Totogatic lake.

(c) *Burnett county.* Bashaw lake, Big Clam lake, Big Sand lake, Briggs lake, Gaslyn lake, Long lake, Mud lake, town of Oakland, Mud lake, town of Swiss, Mud Hen lake, Spencer lake and Trade lake.

(d) *Douglas county.* In Allouez Bay in the city of Superior and Mulligan lake.

(e) *Forest county.* Atkins lake, Riley lake, Big Rice lake and Wabigon lake.

(f) *Marinette county.* Noquebay lake.

(g) *Oneida county.* Atkins lake, Big lake and Big lake thoroughfare, Gary lake, Little Rice lake, Rice lake and Spur lake.

(h) *Polk county.* Balsam Branch, Big Round lake, East lake, Glenton lake, Little Butternut lake, Nye lake, Rice lake and White Ash lake.

(i) *Sawyer county.* Musky Bay located in sections 10 and 11, T39N, R9W, on Big Lac Court Oreilles lake.

(j) *Vilas county.* Allequash lake, Little Rice lake, Nixon lake, Irving lake, Aurora lake, West Plum lake, Devine lake, West Ellerston lake, Micheys Mud lake, Frost lake, Rice lake, Sand lake and Sugar Bush Chain.

(k) *Washburn county.* Bear lake, Gilmore lake, Little Mud lake, Long lake, Mud lake, Nancy lake, Rice lake, Spring lake and Tranus lake.

**(5)** No person may harvest or gather any wild rice in any area of the state of Wisconsin between sunset and the following 10:00 a.m. central daylight time.

**(6)** No person may harvest or gather any wild rice in any navigable lake by the use of any method other than smooth, rounded, wooden rods or sticks not more than 38 inches in length and which are held and operated by hand.

**Note:** Section 29.607, Stats., prohibits the use of any mechanical device in any water of the state for harvesting or gathering wild rice.

**(7)** No person may harvest or gather any wild rice in any navigable lake by the use of any boat longer than 17 feet or greater than 38 inches in width or by the use of any boat propelled by other than muscular power using only a push-pole or canoe paddle.

**(8) (a)** All licensed wild rice dealers shall file reports on forms furnished by the department covering the license period with the Department of Natural Resources, Box 7924, Madison, 53707, prior to obtaining a wild rice dealer's license.

(b) Such reports shall summarize the book records required and shall include the total number of transactions and the total amount of wild rice bought, sold or processed during the period covered by such license.

**(9)** Nothing in the provisions of this section shall prohibit authorized agents of the department from harvesting or gathering wild rice in the performance of their official duties.

**History:** Cr. Register, July, 1960, No. 55, eff. 8-1-60; r. and recr. Register, July, 1964, No. 103, eff. 8-1-64; renum. from WCD 19.09 to be NR 19.09 and am. (2), intro. par., (6) and (7), Register, April, 1971, No. 184, eff. 5-1-71; am. (2) (c), (k) and (m), Register, November, 1976, No. 251, eff. 12-1-76; am. (5), Register, April, 1978, No. 268, eff. 5-1-78; am. (1) (c), Register, December, 1978, No. 276, eff. 1-1-79; r. and recr. (2) (a) to (m), and am. (6), Register, August, 1979, No. 284, eff. 9-1-79; am. (2m) (c), Register, September, 1983, No. 333, eff. 10-1-83; emerg. cr. (2m) (aa), am. (2m) (c), (d), (g), (h) and (k), eff. 8-13-84; emerg. am. (3) eff. 8-27-84, cr. (2m) (aa), am. (2m) (c), (d), (e), (g), (h), (k) and (3), Register, May, 1985, No. 353, eff. 6-1-85; r. (8), renum. (1) to (7) to be (2) to (9) and am. (6) and (7), cr. (1), Register,

August, 1985, No. 356, eff. 9-1-85; am. (3), Register, July, 1987, No. 379, eff. 8-1-87; am. (3), Register, July, 1988, No. 391, eff. 8-1-88.

**NR 19.11 Scientific collectors permits and scientific research licenses.** (1) **DEFINITIONS.** For the purposes of implementing ss. 29.614 and 169.25, Stats., and within this section, the following definitions apply:

(a) "Qualified natural person" or "person" means any individual complying with s. 29.614, Stats., and this section, not including a corporation, partnership, cooperative, society, association or other organization.

(b) "Bonafide research program" means planned study and investigation undertaken to discover or establish facts or principles leading to increased, useful scientific knowledge.

(c) "Useful scientific knowledge" means new information contributing to the long-term well-being of wild animals and their habitats, or providing educational opportunities in the natural sciences.

(2) **APPLICABILITY.** (a) *Permits not required.* Scientific collectors permits are not required for the collection of wild plants, unprotected wild animals taken legally, or wild animals obtained from licensed game farms or fish hatcheries.

(b) *Bird banding.* Scientific collectors permits will be required for trapping and banding protected nonmigratory upland game birds.

(c) *Licenses.* A person is not required to possess a separate hunting, fishing or trapping license while collecting under a scientific collector permit.

(d) *Endangered species.* Endangered or threatened wild animals may be collected only under authority of endangered species permits issued by the department pursuant to s. 29.604, Stats., and ch. NR 27.

(e) *Tagging of fish.* Scientific collectors permits are required to capture a wild fish, attach a tag to any part of it, and then to release it back into waters of the state.

(3) **PERMIT APPLICATIONS.** (a) *Forms.* Applications for scientific collectors permits shall be made on application forms provided by the department and include:

1. Name and address of the applicant;
2. Applicant's personal description;
3. Purpose of the request;
4. Species and number of specimens to be collected;
5. Places and times when specimens are to be collected;
6. Method of collecting;
7. Place where collections will be kept; and
8. Such additional information as may be requested by the department.
9. The period of the permit.

(b) *Narrative proposal.* All permit applications shall be accompanied by a written proposal stating the objectives, justifications, procedures, times and places of collection, application of results and sponsor, if any, of the project described in the application.

(4) **PERMIT ISSUANCE.** (a) *Issuance.* Permits shall be issued in the name of the applicant. All agents of the permittee assisting in the permitted collections will be listed on the permit. Separate copies of permits shall be signed and carried by each person named in the permit when that person is acting under it in the absence of the permittee.

(b) *Specimen materials.* A permit will be issued for collections yielding preserved specimen materials only when such materials are to be kept in a place and manner where students and the public have access to them. Private collections to be kept in a manner not open to the public will not be approved.

(c) *Conditions.* 1. 'Contents.' Permits will contain conditions deemed necessary by the department to protect the resources of

the state and assure use of specimens taken are in compliance with s. 29.614, Stats.

2. 'Nonresidents.' Permits issued to nonresidents will set forth conditions of removal of specimens from the state.

3. 'Federal permits.' a. Permits involving the capture, marking, collection, possession or salvage of migratory birds or parts, nests or eggs of migratory birds will not be issued under this section until the applicant possesses a permit issued by the U.S. fish and wildlife service for that activity.

b. Permits under this section are not required for banding or marking capture-and-release activities authorized under a permit issued by the U.S. fish and wildlife service.

4. 'Size of collections.' Permits will not be issued which authorize collections endangering the population of animals the collection would draw from, or exceeding the number of animals required to meet the permittee's objectives.

5. 'Unprotected species.' Permits will not be issued for the collection of protected species if unprotected species can be used to accomplish the same purposes.

(5) **PERMIT USAGE.** (a) *Disposition of specimens.* 1. Living unharmed specimens collected during the course of permitted activities shall be returned to the wild at the point of capture, unless otherwise provided in the permit.

2. Any endangered or threatened species taken unintentionally during the course of permitted activities shall be immediately released if unharmed.

3. Injured or dead wild animal specimens shall be immediately turned over to the department employee named in the permit unless otherwise provided in the permit.

(b) *Notification of department.* Each permittee shall notify the department employee named in the permit at least 48 hours prior to collecting of the time and place where specimens will be collected.

(c) *Marked gear.* All traps, nets and any other gear used for capturing wild animals under terms of a permit shall be marked with the permit number, name and address of the permittee.

(d) *Trap and net tending.* All traps, nets and other capture employed by the permittee at least once each 24-hour period.

(e) *Fishing gear restrictions.* 1. 'Gill nets.' Gill nets may not be used in inland waters unless specifically authorized by a permit.

2. 'Buoys.' All buoys and buoy staffs shall be marked and maintained as required by the department. The permit number, name and address of the permittee shall be maintained in plain figures on the bowl of the buoy.

3. 'Sport fishing equipment.' Hook and line fishing equipment and spearing equipment may not be possessed on a boat operating under a permit without prior approval of the department.

(6) **RECORDKEEPING AND ANNUAL REPORTS.** (a) *Records.* Each permittee shall keep current records, in the English language, of all collections under the permit. Records of collections shall be made available to the department during normal business hours, or upon 8 hours notice at other times.

(b) *Required reports.* Permittees shall supply information requested by the department and annually file a complete and accurate report on forms covering activities conducted under authority of the permit. Unless otherwise provided in the permit, such reports shall be filed using a report form provided by the department not later than January 10 of the year following expiration of the permit.

(c) *Content.* Annual reports by permittees shall include:

1. The common name, scientific name and number of each species and type of specimen material collected;
2. The date and geographic location of each collection;
3. Disposition of collected specimens; and

4. Any other information requested by the department.

**(7) DISPOSITION.** Specimens collected under the authority of the scientific collector permit may be transferred to and possessed by an educational institution for exhibition or education purposes upon completion of the project or expiration of the permit. Environmental consulting organizations may retain specimens following permit expiration provided the specimens are marked in a manner prescribed by the department. An educational institution or environmental consulting organization possessing specimens shall possess written proof of source, including the scientific collector permit number of the source and present that proof upon request by the department.

**Note:** Application forms for scientific collectors permits under this section may be obtained from any department regional office. Federal permits for migratory birds may be obtained from the Special Agent in Charge, U.S. Fish and Wildlife Service, Federal Building, Fort Snelling, Twin Cities, MN 55111.

**History:** Cr. Register, April, 1966, No. 124, eff. 5-1-66; renum. from WCD 19.11 to be NR 19.11, and am. (1) intro. par., (1) (h), (2) intro. par. and (2) (c), Register, April, 1971, No. 184, eff. 4-1-71; cr. (5) (e) and (6), Register, September, 1978, No. 273, eff. 10-1-78; r. and recr. (2), r. (5) (a), Register, August, 1979, No. 284, eff. 9-1-79; r. and recr. Register, November, 1981, No. 311, eff. 12-1-81; r. and recr. (2) (c), cr. (3) (a) 9., (4) (c) 3.b. and (7), am. (4) (c) 3., r. (6) (c) 3., renum. (6) (c) 4. and 5. to 3. and 4., Register, August, 1986, No. 368, eff. 9-1-86; **CR 03-030: am. (1) (intro.) Register October 2003 No. 574, eff. 11-1-03; CR 03-014: cr. (2) (e) Register October 2003 No. 575, eff. 4-1-04.**

**NR 19.115 Fish, fur, game seals.** Fish, fur, game seals shall be attached by or at the direction of the department to fish, fur or game articles which may be sold pursuant to s. 29.934 (1), Stats. Each seal shall be issued for a particular article only and no seal may be attached or assigned to any other article. No person may possess or transfer any seal to another person except as incidental to the possession, purchase, sale, trade or transfer of the article of fish, fur, or game for which the seal was issued.

**History:** Cr. Register, March, 1990, No. 411, eff. 4-1-90.

**NR 19.12 Tagging the carcasses of wild animals, birds and fish taken on Indian reservations. (1)** (a) Each authorized person who has taken a protected wild animal, bird or fish on an Indian reservation, under provisions of the reservation's treaty rights during the off-reservation closed season for such game set by the department of natural resources, shall before removing the carcass or part thereof of such animal, bird or fish from the reservation, contact and exhibit it during ordinary working hours to a conservation warden of the department of natural resources or to any tribal member authorized by the particular tribe and designated by the department of natural resources.

(b) The conservation warden or designated tribal member shall inspect all such carcasses, attach and lock a special lettered and numbered tag to each carcass or part thereof, and maintain a record book containing the following information: the date, the reservation, the name and address of the person being issued the tag, the species and description of the wild animal, bird or fish being tagged, the destination, and the name and address of the person issuing the tag. Such record book shall be exhibited to the department of natural resources at reasonable hours for inspection and duplication. Failure to maintain and exhibit such a record book containing the above information shall be sufficient cause for the department of natural resources to revoke the authority of the official to issue any more tags. The secretary of the department of natural resources may take such revocation action without requiring that a hearing be held on the matter.

(c) The special lettered and numbered tag shall be distributed to the conservation warden or designated tribal member by the department of natural resources at such times and in such numbers as it deems appropriate. During the off-reservation closed season for such wild animal, bird or fish, no person shall remove any such carcass or part thereof from an Indian reservation without such a tag being attached and locked. No person shall remove the tag prior to consumption of the animal, bird or fish carcass tagged. No endangered species shall be tagged. No person other than a con-

servation warden or designated tribal member shall have unused tags in his or her possession.

**History:** Cr. Register, April, 1976, No. 244, eff. 5-1-76.

**NR 19.13 Disposition of deer accidentally killed by a motor vehicle. (1)** The driver of a motor vehicle involved in a vehicle-deer collision may have first priority to the deer killed. However, if the driver does not want to take possession of the deer it may be given to another party at the scene of the accident by the department or its agents.

(2) If a driver collides with and kills 2 or more deer at one time, the driver is eligible to receive as many of these deer as the driver wishes.

(3) No vehicle-killed deer, or any parts thereof, may be sold or bartered by the individual to any other person at any time, except the head or hide, which may be disposed of pursuant to s. 29.347 (3), Stats. Vehicle-killed deer may be given to another person or to charitable organizations.

(4) Possession of vehicle-killed deer shall be limited to 90 days.

(5) Spotted fawns and white deer may not be released by the department.

(6) No deer may be retained until it has been tagged as required under this section.

(7) Permits shall be issued and attached by the department or its agents for each deer released.

(8) The permit shall contain the following information:

(a) Name and address of permittee.

(b) Vehicle license number if deer given to driver involved in the collision.

(c) Date of accident.

(d) Date of issuance.

(e) Identification of permittee as driver of vehicle, or other.

(f) Sex of deer and approximate weight.

(g) Location of kill as to county and deer management unit.

(h) Name of officer who issued permit carcass tag and the name and address of the officer's agency.

(i) Statement that the permit is valid for a period of 90 days after the date of issuance.

(9) One copy of permit shall be issued to permittee, one copy sent to the department, and one copy retained by issuing agency.

(10) Provisions of permit and restrictions shall be printed on the back of the permit form.

(11) If a deer is not released pursuant to sub. (1), it may be sold by the department at the highest price obtainable or otherwise disposed of.

(12) The entrails or any other parts of deer killed in vehicle-deer collisions may not be disposed of on the highway right-of-way.

**History:** Cr. Register, June 1976, No. 246, eff. 7-1-76; am. Register, August, 1994, No. 464, eff. 9-1-94; am. (3), Register, October, 1997, No. 502, eff. 11-1-97.

**NR 19.25 Wild animal protection.** Unless engaged in dog training as authorized by the department in s. NR 17.001 (8), or other activity specifically authorized by the department, a closed season is established and no person may harass, disturb, pursue, shoot, trap, catch, take, or kill protected wild animals by any means, except as described under s. NR 12.10 (1) (b) 4.

**History:** Cr. Register, August, 1980, No. 296, eff. 9-1-80; correction made under s. 13.93 (2m) (b) 7., Stats., Register, October, 1997, No. 502; CR 01-006: am. Register August 2001 No. 548, eff. 9-1-01.

**NR 19.26 Season and restrictions for taking frogs.**

(1) The open season for frogs runs from the Saturday nearest to May 1 to December 31.

(2) No person may take frogs with the aid of a firearm or air gun.



(3) Possession limits for frogs are established in s. NR 16.12.  
**History:** Cr. Register, May, 2000, No. 533, eff. 6-1-00; CR 03-030: r. and recr. Register October 2003 No. 574, eff. 11-1-03

**NR 19.27 Seasons, limits, restrictions on taking crayfish.** There is a closed season established for taking crayfish except when taken during the open season by the following methods:

Animal and locality	Open season (both dates inclusive)	Bag limit	Size limit	Methods of taking
(1) Crayfish  All areas except Wis.-Minn. boundary waters. See s. NR 21.04 (12)	Continuous	None	None	Crayfish may be taken by hand, minnow seine, minnow dipnets or minnow traps, as defined in s. NR 20.10, and by crayfish traps with any entrance not to exceed 2½ inches at its greatest diagonal measurement.  All traps used to take crayfish shall be raised and crayfish removed at least once each day following the day set unless otherwise authorized by the district director.  All traps shall be tagged with a tag clearly bearing in the English language the name and address of the owner and trapper.

(4) ADDITIONAL RESTRICTIONS. (a) *Crayfish*. 1. 'Prohibitions.' No person may:

a. Use live crayfish as bait on the inland waters except on the Mississippi river.

b. Possess live crayfish while on any inland waters of the state, except the Mississippi river, unless that person is engaged in crayfish removal. Simultaneous possession of live crayfish and hook and line fishing equipment while on the inland waters, except the Mississippi river, shall be considered prima facie evidence of a violation of this subsection.

c. Place, deposit, throw or otherwise introduce live crayfish into any waters of the state unless a permit authorizing introduction has been issued by the department.

2. 'Bait.' a. Crayfish may be taken with use of bait consisting only of parts of fish lawfully taken or fish by-products including fish meal or prepared parts of such fish.

b. Bait or parts of bait authorized in this subdivision may not be deposited in the waters of this state unless they are enclosed within the trap.

3. 'Floats or markers.' Floats or markers used to locate traps for the taking of crayfish:

a. May not exceed 5 inches in size at its greatest dimension;  
b. May not extend more than 4 inches above the surface of the water.

c. Shall plainly and clearly display in the English language the name and address of the owner or operator; and

d. Shall be of a color other than orange or fluorescent colorations.

4. 'Traps.' Crayfish traps placed in trout streams shall conform to the dimensions of minnow traps described in s. NR 20.03 (26) unless otherwise authorized by the department.

**History:** Cr. Register, December, 1982, No. 324, eff. 1-1-83; r. and recr. Register, June, 1984, No. 342, eff. 7-1-84; cr. (4) (a) 4., Register, December, 1984, No. 348, eff. 1-1-85; am. (1), Register, July, 1988, No. 391, eff. 8-1-88; am. (intro.), r. (3), Register, February, 1997, No. 494, eff. 3-1-97; correction in (4) (a) 4. made under s. 13.93 (2m) (b) 7., Stats., Register, September, 1999, No. 525; am. (intro.), r. (2) and (4) (b), Register, May, 2000, No. 533, eff. 6-1-00.

**NR 19.275 Turtles. (1) APPLICABILITY.** This section applies to the taking and possession of turtles in Wisconsin, except for the Wisconsin-Minnesota boundary waters and the Wisconsin-Iowa boundary waters, where the taking and possession of turtles is governed by ss. NR 21.13 and 22.13, respectively.

(2) SEASONS; POSSESSION AND DAILY BAG LIMITS. No person may take turtles except during the open seasons established in sub. (4). For the purpose of turtle harvest, the possession limits are the same as the daily bag limits.

(3) ADDITIONAL RESTRICTIONS. No person may do any of the following:

(a) Take, possess or control a turtle unless the person is in possession of a valid approval issued under s. 29.624, 29.161, 29.204, 29.207, 29.231 or 29.235, Stats., which authorizes the hunting of small game, or an approval issued under s. 29.624, 29.228, 29.219, 29.231, 29.235, 29.531, 29.533, Stats., which authorizes fishing.

(b) Take turtles by methods other than hoop net turtle traps that comply with par. (c), hand, hook and line or hooking.

(c) Use a hoop net turtle trap to take turtles unless it complies with all of the following criteria:

1. It is constructed with no less than 6 inch stretch measure mesh net as defined in s. NR 25.02 (28).

2. The net is nylon or other stretchable fabric. Wire may not be used.

3. It is constructed with a funnel entrance at one or both ends which are tied off to the sides or the opposite ends. The opening in the funnel may be round or oval.

4. It is designed and set so the closed sides sit horizontal in the water.

**Note:** There is no restriction on the size of the trap itself or the number of hoops used in its construction.

(d) Use a hoop net turtle trap unless it is placed on the bed of the stream, river, lake or pond so that a minimum of 2 inches of the trap is above the water's surface.

(e) Use a hoop net turtle trap unless it is checked and the entrapped contents removed at least once each day.

(f) Place, use or tend more than 3 hoop net turtle traps.

(g) Use a hoop net turtle trap unless a stamped or engraved metal tag, bearing the name and address of the operator of the trap in the English language, is attached in a manner that is visible above water and legible at all times.

(h) Place, use or tend a hoop net turtle trap or remove its entrapped contents unless that person is the operator identified on the trap tag.

**(4) SEASONS AND LIMITS:**

Turtle species	Open seasons (both dates inclusive)	Daily bag and possession limit	Size limit
(a) Snapping turtle	July 15 to Nov. 30	3	12 inch minimum 16 inch maximum top shell measured from front to back
(b) Softshell turtle	July 15 to Nov. 30	3	None
(c) All other turtles not listed as threatened or endangered in ch. NR 27	July 15 to Nov. 30	5 in total	None

**History:** Cr. Register, February, 1997, No. 494, eff. 3-1-97.

**NR 19.28 Taxidermy. (1) TRANSPORTATION.** Whenever a permitted taxidermist, or his or her agent, takes a wild animal carcass into possession at a location other than the taxidermist's place of business, the records required by s. 29.506 (5) (b) and (6), Stats., shall be completed immediately and shall accompany the carcass during transportation.

**(2) POSSESSION.** (a) If a permitted taxidermist holds wild animal carcasses received in connection with his or her business pursuant to the authorization in s. 29.506 (4), Stats., in the same storage area or freezer with personally acquired wild animal carcasses, every wild animal carcass so held shall be tagged in the manner described in s. 29.506 (5) (b), Stats. Wild animal carcasses so tagged and stored may not be considered to be commingled.

(b) The authorization of s. 29.506 (4), Stats., does not apply to wild animal carcasses acquired by a taxidermist for purposes not related to the business of taxidermy.

**(3) MOUNTED COLLECTION OF A TAXIDERMIST.** This section does not permit seizure of, nor prohibit possession or sale of a lawfully obtained wild animal carcass by a permitted taxidermist which is mounted or is in the process of being mounted for the private collection of a permitted taxidermist provided that the tagging and record keeping requirements and the commingling prohibitions of s. 29.506, Stats., have been complied with. Included is any such wild animal carcass received by a permitted taxidermist in connection with his or her business which has been abandoned by the customer.

**History:** Cr. Register, March, 1987, No. 375, eff. 4-1-87.

**NR 19.30 Criminal history checks; volunteer safety instructors.** Whenever application is made to the department by a person interested in becoming certified to instruct as a volunteer all-terrain vehicle, boating, bowhunter, hunter education, Wisconsin cooperative trapper education program or snowmobile safety instructor, the bureau of law enforcement shall conduct a criminal history, character and background check on the applicant.

**History:** Cr. Register, July, 1996, No. 487, eff. 8-1-96; am. Register, September, 1998, No. 513, eff. 10-1-98.

**NR 19.40 Department authority to void local hunting, fishing and trapping ordinances. (1) PURPOSE.** These rules are developed, pursuant to s. 227.11, Stats., to establish procedures for determining when local ordinances should be voided under s. 29.038, Stats., because they have more than an incidental effect on hunting, fishing or trapping, or do not have public health and safety as a primary purpose.

**(2) DEFINITIONS.** In this section:

(a) "Building devoted to human occupancy" has the meaning used in s. 941.20 (1) (d), Stats.

(b) "Undeveloped lands" has the meaning given in s. 943.13 (1e) (f), Stats.

**(3) DEPARTMENT DETERMINATIONS.** Department determinations related to the legality of local ordinances regulating hunting,

fishing or trapping shall consider the following factors when determining the validity of a local ordinance. The listed factors are not weighted and are factors which would favor a department decision to void the ordinance.

(a) The extent to which the ordinance affects undeveloped lands or lands which are zoned agricultural, forestry, lowland conservancy, upland conservancy or flood plain.

(b) The extent to which the department has received complaints about the ordinance.

(c) Whether the ordinance purports to directly regulate hunting.

(d) Whether the ordinance requires a permit to discharge a firearm or a bow, whether a fee is charged which exceeds 150% of the issuance fee established by s. NR 19.02 (4) (b), creates a higher fee for non-residents or requires a background check.

**Note:** At the current time, the fee established by s. NR 19.02 (4) (b) is \$3.00.

(e) Whether the ordinance restricts the discharge of fine shot while the shooter is in or on the water more than 100 yards from the nearest developed shoreline, and shooting away from or parallel to that shoreline.

(f) Whether the ordinance prohibits the discharge of fine shot when on undeveloped lands which are more than 100 yards from buildings devoted to human occupancy, and shooting away from the buildings.

(g) Whether the ordinance prohibits hunting, fishing or trapping on department property otherwise open to hunting, fishing or trapping or on property leased by or under easement to the department for the purpose of hunting, fishing or trapping.

(h) Whether the ordinance prohibits the discharge of shotguns or bows within all areas of the municipality.

(i) Whether the ordinance prohibits the discharge of bows.

(j) Whether existing state laws adequately address the local safety concerns.

(k) Whether the ordinance prohibits fishing by individuals located on public waters.

(L) Whether less restrictive alternatives are available to address a municipality's safety concerns.

(m) Whether the ordinance prohibits live trapping.

(n) Whether the ordinance has no apparent health or safety purpose.

**(4) EXCEPTION.** This section does not apply to fishing rafts subject to regulation under s. 30.126, Stats.

**(5) PROCEDURES.** (a) Prior to holding a hearing to determine the validity of a local ordinance under s. 29.038, Stats., the department shall mail the affected municipality a notice of the time and location of the hearing. The department shall also publish a class I notice under ch. 985, Stats., of the hearing in the county in which the municipality is located. The notice shall be given at least 30 days prior to the date set for the hearing.

(b) Hearings shall be conducted to the extent possible in a manner consistent with s. 227.18 (1) and (2), Stats.



(c) The final decision shall be made by the secretary or the secretary's designee.

(d) The decision shall be in writing and accompanied by findings of fact and conclusions of law.

(e) The department may void ordinances found to be in violation of s. 29.038, Stats., in whole or in part, or as applied to certain areas, certain classes of persons, certain times of the year, or certain circumstances.

**History:** Cr. Register, May, 2001, No. 545, eff. 6-1-01.

**NR 19.50 All-terrain vehicle and snowmobile education program fee.** The fee for the all-terrain vehicle and snowmobile education certification programs shall be \$10.00. The department may authorize the instructors to retain up to 50% of the fee to defray expenses incurred locally to operate the program based on the actual cost incurred to the instructor. The remaining funds shall be turned in to the department to defray expenses incurred to operate these programs during the year.

**History:** CR 00-110: cr. Register April 2002 No. 556, eff. 5-1-02.

## Subchapter II — Wildlife Damage

**NR 19.75 Purpose.** This subchapter is adopted to implement and administer the beaver damage control provisions under s. 29.885, Stats., deer damage provisions under s. 29.887, Stats., and the wildlife damage abatement and claim program established under s. 29.889, Stats. In its administration of the wildlife damage abatement and claim program the department shall assure that the funds appropriated by the legislature are used in the most cost-effective manner. Wildlife damage abatement measures when determined by the department and the administering county to be cost-effective shall be funded and receive priority in payment over damage claims.

**History:** Cr. Register, January, 1984, No. 337, eff. 2-1-84; am. Register, July, 1987, No. 379, eff. 8-1-87; am. Register, June, 1988, No. 390, eff. 7-1-88.

**NR 19.76 Definitions.** For purpose of this subchapter and s. 29.889, Stats.:

(1) "Contiguous land" means lands under the ownership, lease or control of an applicant for deer, elk, bear, turkey or goose damage payments which are connected to the lands subject to a claim application or separated only by a roadway, easement, license or waterway.

(2) "County" means a county board of supervisors who has, by resolution, approved application and administration of a program under s. 29.889, Stats.

(3) "Crops on agricultural lands" includes Christmas trees.

(3m) "Enrollee" means a farmer, grower, livestock raiser, beekeeper, nursery operator, orchardist, Christmas tree grower, or other person or corporation or partnership enrolled in the wildlife damage abatement and claims program for services under this program.

(4) "Lands suitable for hunting" means contiguous land where the conduct of hunting is not likely to result in a violation under s. 29.301 (1), 167.30 or 941.20 (1) (d), Stats., and shall include all areas within the contiguous land under the same ownership, lease or control except those areas identified by the county or its agent pursuant to s. NR 19.795.

**Note:** This definition of "land suitable for hunting" shall be used to determine hunter numbers for access to hunt species other than deer and elk.

(4e) "Land suitable for hunting deer and elk" means woodlands, wetlands or other deer or elk cover, cropland within 330 feet of deer or elk cover on all contiguous land, and where the conduct of hunting is not likely to result in a violation under s. 29.301 (1), 167.30 or 941.20 (1) (d), Stats., except those areas identified by the county or its agent pursuant to s. NR 19.795.

**Note:** This definition of "land suitable for hunting deer or elk" shall be used to determine hunter numbers for access to hunt deer and elk.

(4m) "Livestock holding areas" means barns, pole sheds and other buildings for the protection and sheltering of livestock.

(5) "Normal agricultural practices" means practices commonly used in the county to grow and harvest crops.

(6) "Plan" means a plan of administration submitted under s. 29.889, Stats., by a county and approved by the department.

(7) "Reasonable cause" means a presence of at least 2 hunters per 40 acres of land suitable for hunting or the presence of one hunter on less than 40 acres of land suitable for hunting; the hunter is intoxicated, has caused damage to property, littered, used abusive or threatening language, used a firearm in violation with s. 941.20 (1), Stats., used a vehicle or a permanent deer stand on enrolled land without being authorized by the enrollee; the hunter has otherwise engaged in, or displayed a propensity to engage in, conduct contrary to public safety or the protection of personal property; the hunter failed to seek permission or register to hunt; or failure of the hunter to comply with any of the conditions he or she certifies by his or her signature on hunting log forms provided by the county, its agent and the department, including failure to record the time of arrival and departure.

(8) "WDACP" means the wildlife damage abatement and claims program under s. 29.889, Stats., and this chapter.

**History:** Cr. Register, January, 1984, No. 337, eff. 2-1-84; emerg. am. (1) and (4), cr. (3m), (4e), (4m), (4t) and (7), eff. 7-1-98; am. (1) and (4), cr. (3m), (4e), (4m), (7) and (8), Register, January, 1999, No. 517, eff. 2-1-99; **CR 03-018: am. (1) and (4e) Register October 2003 No. 574, eff. 1-1-04.**

**NR 19.77 County application.** (1) Applications by a county to administer the wildlife damage abatement or claim program shall include a plan completed in accordance with s. 29.889, Stats., and this subchapter and a copy of the resolution of the county board authorizing the application.

(2) The department shall review and approve or deny a completed application and plan under this subchapter within 30 days after it is received by the department.

**History:** Cr. Register, January, 1984, No. 337, eff. 2-1-84.

**NR 19.775 WDACP technical manual.** The department's WDACP technical manual (Wildlife Damage Abatement and Claims Program Technical Manual, Volume 1/Reference Handbook/134pp., Volume 2/Field Handbook/153pp., Wis. Dept. of Natural Resources, July 1, 1998) shall specify WDACP procedures and requirements including the following:

(1) Authorized wildlife damage abatement measures and methods for implementing and paying for these abatement measures.

(2) Forms and procedures for payment and processing of statement of claims and applications for abatement assistance.

(3) Procedures and standards for determining the amount of wildlife damage.

(4) Procedures for record keeping, audits and inspections.

**Note:** Copies of any WDACP technical manual may be obtained from the Wildlife Damage Specialist, WDNR, Bureau of Wildlife Management, GEF 2, P.O. Box 7921, Madison, WI 53707-7921.

**Note:** The WDACP technical manual is on file at the offices of the department of natural resources, the secretary of state and the revisor of statutes bureau.

**History:** Cr. Register, January, 1999, No. 517, eff. 2-1-99.

**NR 19.78 Administrative and abatement costs and fund advancement to counties.** (1) (a) Except as provided in par. (b), the department shall, based upon the county's annual estimate of anticipated administrative and abatement costs, advance to the county for administration purposes one-fourth the amount indicated in the annual estimate or one-fourth of such other amount deemed reasonable by the department within 30 days following department approval of the annual budget estimate.

(b) The department may not process an advance until the county has submitted a final reimbursement request for the year previous to that for which participation is applied for. Upon receipt of this reimbursement request, the advance payment shall be paid within 30 days of approval of the annual budget estimate.

(2) Use of advanced administration funds is limited to actual costs incurred. Eligible costs of the county which may be paid out of this advance fund are limited to:

- (a) Reasonable salaries or contract payments;
- (b) Mileage at standard state of Wisconsin rates established by the department of administration;
- (c) Staff training, telephone, printing and distributing promotional materials; and
- (d) Other reasonable costs incurred in accordance with normal county administrative procedures.

(3) **REIMBURSEMENT DEADLINES.** Counties shall submit reimbursement requests for administration and abatement costs to the department quarterly according to the following schedule: by May 31 for the first quarter, January 1 through March 31; by August 31 for the second quarter, April 1 through June 30; by November 30 for the third quarter, July 1 through September 30; and no later than March 1 for the final reimbursement request for the fourth quarter, October 1 through December 31.

(4) A county may not be reimbursed for administrative or abatement costs in excess of the estimate contained in the plan without approval of the department.

**History:** Cr. Register, January, 1984, No. 337, eff. 2-1-84; emerg. am. (1), r. and recr. (3), eff. 7-1-98; am. (1) (a) and (b), r. and recr. (3), Register, January, 1999, No. 517, eff. 2-1-99.

**NR 19.79 Wildlife damage abatement.** (1) Costs of wildlife damage abatement measures rendered by a county under the plan are eligible for reimbursement under s. 29.889, Stats., only when rendered to persons owning or controlling land within the county of administration.

(2) Abatement measures rendered by a county under s. 29.889, Stats., are limited to those which are detailed in the WDACP technical manual, or authorized in writing by the department and shall be cost-effective as required by s. 29.889 (5) (bm), Stats.

(3) Woven-wire barrier fences, for which an application has been approved by the county and department, under s. NR 19.81, shall be included in the plan for the calendar year succeeding the fence application, unless otherwise approved by the department.

(4) The county shall, as a condition of providing abatement assistance, require full cooperation and assistance of the enrollee in operating, maintaining and applying all abatement measures. An enrollee who engages in abusive or threatening language shall also be considered uncooperative. Uncooperative enrollees shall be ineligible for program abatement assistance for the remainder of the calendar year. Upon determining an enrollee is uncooperative and ineligible for further program assistance, the county or its agent shall notify the enrollee in writing that the enrollee's program participation is terminated.

(5) (a) **Cost-sharing.** In accordance with the WDACP technical manual, the county or its agent shall determine the actual costs of providing wildlife damage abatement assistance to provide 75% cost-sharing. For permanent damage abatement measures, the enrollee shall provide 25% of the cost of materials and installation. For the purpose of determining the total cost of temporary damage abatement measures, cooperation by the enrollee in installation, construction, operation, notification if required, or maintenance of the temporary measure shall be considered 25% of its total costs. Permanent damage abatement measures include barrier woven wire and high-profile electric fences. Temporary damage abatement measures include the use of temporary low-profile electric or barrier snow fencing, scare techniques, repellents, depredation shooting permits, trap and translocation, or other temporary methods determined by the department.

(b) All of the following costs of abatement measures are eligible for reimbursement to the county:

- 1. The costs of abatement equipment, supplies and services.

2. Installation costs that are part of the of 75% WDACP cost-share.

**History:** Cr. Register, January, 1984, No. 337, eff. 2-1-84; am. (2) and (3), r. and recr. (4) and cr. (5), Register, January, 1999, No. 517, eff. 2-1-99; CR 03-018: am. (3) and (5) (a) Register October 2003 No. 574, eff. 1-1-04.

**NR 19.795 Open hunting access requirement.**

(1) Enrollees shall have hunting access control over all contiguous land on which they seek wildlife damage abatement assistance or claims. Enrollees shall open their land to hunting, using one of the access options in sub. (3), during the regular hunting seasons for the species causing the damage for which they have enrolled in the WDACP as required by s. 29.889 (7m), Stats. Enrollees may not charge any fees for hunting, hunting access or any other activity that includes hunting the species causing damage. This hunting access requirement shall also apply to enrollees who have also been issued a shooting permit under the authority of s. 29.885, Stats., and ch. NR 12.

(2) Enrollees shall enroll with the county by completing an agreement which certifies their hunting access control for all contiguous lands of the same ownership or control where wildlife damage is occurring and for which they are seeking program services under this chapter.

(3) Enrollees shall choose one of the 2 following hunting access options:

(a) **Open public hunting for the species causing damage.** The enrollee may not place limitations on which hunters or how many hunters may access the property enrolled by the enrollee. The enrollee may not require registration of hunters, but the hunter shall establish an acceptable arrangement with the enrollee for notifying the enrollee of the hunter's intent to hunt prior to hunting. The enrollee may choose how often notification is required and that notification be made in writing, by phone or in person each day the hunter intends to hunt or otherwise.

(b) **Managed hunting access.** Enrollee notification and hunter registration with the enrollee is required. The following provisions shall apply to the managed hunting access option:

1. 'Land suitable for hunting.' The county, or its agent, shall determine the area of land suitable for hunting in accordance with the WDACP technical manual and this chapter. The following criteria shall be used to determine land suitable for hunting:

a. The acreage of land suitable for hunting as defined in s. NR 19.76 (4) or (4e), depending on the species causing damage.

b. Enrollees may prohibit or restrict discharge of firearms within 100 yards of livestock holding areas.

c. Permanent barrier woven-wire and high-profile electric fences. Land inside a permanent barrier fence, which meets construction and maintenance standards in the WDACP technical manual, may not be considered land suitable for hunting.

2. 'Hunting access map.' The county or its agent shall provide property maps to enrollees using aerial photos or plat maps to identify property boundaries and land suitable for hunting. The county, in consultation with the enrollee and in accordance with the WDACP technical manual, may delineate hunting zones for parcels of the property to assist the enrollee in distributing hunting effort to promote distribution of hunting effort and safety. The enrollee shall use these maps to explain to hunters boundaries and hunting constraints on the enrolled property.

3. 'Registration.' To register for hunting access, hunters shall contact the program enrollee after obtaining the county's list. The county or its agent shall provide the current year's list and a fact-sheet which describes the WDACP hunting access system and the obligations of the hunter under this system. The hunter shall arrange a meeting with the enrollee. The enrollee shall describe the registration process, including completion of a hunting log, where the log will be located on the property, any hunting constraints on the property, and any information necessary to promote safety and prevent trespass. The registration form shall be

provided to the enrollee by the county or its agent and be in the form of a log book following the format in the WDACP technical manual. The enrollee shall keep his or her hunting log current, recording hunters under this section and shooting permit participant hunters under ch. NR 12 to show compliance with the hunting access requirement. Enrollees shall make these records available for review by the county, its agent and department staff as required by s. 29.889 (8r) (a), Stats.

4. 'Hunting access.' Hunting access shall be on a first come, first serve basis. Hunters may contact enrollees before the dates they intend to hunt, but may not register until their intended hunting date. Hunters shall register by signing in on the hunting log every time they arrive to hunt and signing out on the hunting log every time they leave.

5. 'Hunter densities.' The enrollee shall allow at least 2 hunters per 40 acres of land suitable for hunting at any given time of the appropriate hunting season. The enrollee and hunting members of the immediate family that reside in the enrollee's household may be counted towards this hunter density restriction.

6. 'Refusal.' Enrollees may refuse hunting access for reasonable cause as defined in s. NR 19.76 (7).

7. 'Complaints.' Upon receiving a written complaint from a hunter denied access, the county, its agent or the department shall review hunting access records required under this chapter to verify compliance. Verification that access requirements have been violated shall require the county or its agent to deny further abatement and claims assistance to the enrollee for the calendar year in which the violation occurred. In addition, an enrollee may be subject to the penalties in s. 29.889 (10), Stats.

8. 'Enrollee registration.' An enrollee and his or her immediate family who live year round on the enrollee's property shall register by signing in on the daily hunting access log when they hunt.

9. 'Parking.' Enrollees shall ensure adequate parking exists with enough parking area to accommodate the minimum required number of hunters and shall clearly describe these arrangements to the hunters.

(4) The county shall maintain the current year's list of all enrollees and make the list available upon request for public inspection.

(5) Hunters may hunt only the species causing damage unless the enrollee or landowner has granted permission to hunt other species.

**Note:** Hunting other species or engaging in other activities not authorized by the enrollee or landowner may be considered trespass in violation of s. 943.13, Stats.

(6) Enrollees may restrict hunting access of bear hunters using dogs if trespass on adjoining private properties is likely to occur.

(7) Motorized vehicles may not be used anywhere but the designated drive-way and parking location on the enrollee's land unless authorized by the enrollee.

(8) Access hunters may not use permanent deer stands on enrolled properties unless authorized by the enrollee. An access hunter may use his or her own portable stand, but it shall be removed daily at the end of shooting hours, unless otherwise authorized by the enrollee. When registering on the hunting log, the hunter shall certify that he or she holds the enrollee and landowner harmless from any injuries associated with the hunter's hunting activity on the enrolled property, including any authorized use of hunting stands.

(9) EXEMPTION. The hunting access requirement does not apply to enrollees where the damage is to apiaries on lands where the applicant does not have hunting access control, pursuant to s. 29.889 (7m) (am), Stats.

(10) POSTING. Enrollees may not post the enrolled land "no hunting" or "no trespassing" and shall remove any such existing

signs. Enrollees may post their lands "hunting by permission only".

**History:** Cr. Register, January, 1999, No. 517, eff. 2-1-99; CR 03-018: am. (3) (b) 1. c. Register October 2003 No. 574, eff. 1-1-04.

**NR 19.80 Wildlife damage claims. (1)** (a) Wildlife damage claims may be paid only to persons owning or controlling land within the county of administration who also have authority to control entry on those lands for purposes of hunting.

(b) Row crops which are stranded by weather catastrophe over winter are not eligible for wildlife damage claims.

(c) Row and forage crops remaining unharvested after 90% of these crops have been harvested in the county are not in compliance with normal agricultural practices, as required by s. 29.889 (6) (dm), Stats.

(2) (a) All wildlife damage claims approved by the county shall be filed with the department no later than March 1 following the calendar year in which the damage occurred.

(b) The department shall review and act on properly filed claims no later than June 1 following the calendar year in which the damage occurred.

(3) If the approved claims exceed the funds available, claims shall be paid on a prorated basis. When prorating claims, the department shall pay a percent of each eligible claim equivalent to the percent of the total approved claim amount that can be paid with the total available funds.

(4) (a) All claimants for damage payments, recognized and included in the county plan, shall meet all of the following eligibility requirements:

1. The lands subject to the claim shall have been in cultivation, a Christmas tree plantation or in an approved agriculture stabilization and conservation service set-aside program for at least 5 consecutive years prior to the application.

2. The crops subject to the claim were not planted or manipulated to attract deer, elk, turkey, bear or geese.

3. Unless otherwise provided by the county, the claimant shall have notified the county of his or her intent to harvest crops subject to damage but not less than 10 days prior to the harvest.

4. a. If a claimant has been issued a deer shooting permit under s. NR 12.16, the claimant has complied with the deer harvest objectives in s. NR 12.16 (2).

b. The county may adopt an exemption recommendation resulting from procedures described in s. NR 12.16 (2) (b) 2. for a permittee enrolled in the WDACP.

5. If an enrollee has participated in the WDACP the previous year, and had in excess of \$1,000 of appraised deer or elk damage losses in the previous year on contiguous land or land within the same section, as documented by the enrollee's previous claims appraisal conducted by the respective county, or the county's agent, to be eligible for claims the enrollee shall implement a deer damage shooting permit that shall automatically be issued by the department to the enrollee by February 15 and shall comply with subd. 4.

6. The county shall, as a condition of providing claims assistance, require full cooperation and assistance of the enrollee in operating, maintaining and applying appraisal equipment as deemed needed by the county or its agent. An enrollee who engages in abusive or threatening language shall also be considered uncooperative. Uncooperative enrollees shall be ineligible for program claims assistance for the remainder of the calendar year. Upon determining an enrollee is uncooperative and ineligible for further program assistance, the county or its agent shall notify the enrollee in writing that the enrollee's program participation is terminated.



(b) The county, in addition to requirements in par. (a), may establish further requirements deemed reasonable and necessary to administer this subchapter.

(5) Crops subject to claims and payments under this subchapter and s. 29.889, Stats., shall be described in the plan.

(6) In order to be eligible for claims, a claimant shall comply with the hunting access provisions in s. NR 19.795.

**History:** Cr. Register, January, 1984, No. 337, eff. 2-1-84; am. (4) (a) (intro.) and 2., cr. (4) (a) 4., Register, May, 1994, No. 461 eff. 6-1-94; (1) renum. to be (1) (a), and (4) (a) 4. to be (4) (a) 4. a., cr. (1) (b), (c), (4) (a) 4. b., 5., 6. and (6), am. (3), Register, January, 1999, No. 517, eff. 2-1-99; CR 00-154; am. (4) (a) 5., Register January 2002 No. 553, eff. 2-1-02; CR 03-018; am. (4) (a) 2. and 5. Register October 2003 No. 574, eff. 1-1-04.

**NR 19.81 Woven-wire and electric barrier fence construction.** (1) Specific applications and funding for woven-wire and electric barrier fences shall be approved by the department and county and included in the county plan. Woven-wire and electric barrier fences are permanent, high-profile fences built to function 15 years or more.

(2) Prior to granting its approval, the department shall assure:

(a) Deer or elk damage has occurred or is occurring on the lands of the applicant and is likely to occur in the future; and

(b) The applicant is eligible to receive deer or elk damage claim payments.

(3) Should it appear that the cost of providing woven-wire fences to applicants will exceed the funds available for abatement and claims, the department, in reviewing applications, shall grant priority after considering:

(a) The crops to be protected are continuing and long-term in nature, and the costs of future damage claims may exceed the cost of fence construction over the lifetime of the fence.

(b) The applicant has fully cooperated and assisted in applying recommended damage abatement measures.

(c) The landowner agrees to construct and maintain the fence for a period of time determined reasonable in the county plan.

(4) The department, exercising reasonable judgment, shall base its decision on priority under sub. (3) on the criteria listed in sub. (3) and the best interest of the state, considering the costs of constructing the barrier fence, the projected amount of damages without the fence and the available funding.

(5) (a) The county and its agent shall follow permanent barrier fence project development, contracting, bidding, funding, billing, and contract term inspection procedures detailed in the WDACP technical manual.

(b) A permanent fence contract approved by the department shall be used by the county and its agent for any WDACP funded fence. In addition, the county and its agent may not solicit bids for a fence contract without written approval of the department. This contract shall be signed by the enrollee, the county and its agent, and the department prior to expenditure of program funds for fence costs.

**History:** Cr. Register, January, 1984, No. 337, eff. 2-1-84; am. (1), cr. (5), Register, January, 1999, No. 517, eff. 2-1-99; CR 03-018; am. (1), (2) (a), (b), (4) and (5) (a) Register October 2003 No. 574, eff. 1-1-04.

**NR 19.82 County recordkeeping.** (1) In this section, "records" means books, documents, papers, accounting records, audits, and other evidence and accounting procedures and practices.

(2) The county is responsible for maintaining a financial management system which shall adequately provide for:

(a) Accurate, current and complete disclosure of the financial results of the program in accordance with department reporting requirements and in accordance with generally accepted accounting principles and practices, consistently applied, regardless of the source of funds.

(b) Effective control over and accountability for all project funds, property, and other assets.

(c) Comparison of actual budget amounts for the program.

(d) Procedures for determining the eligibility and allocability of costs in accordance with the plan of administration.

(e) Accounting records supported by source documentation.

(f) Audits to be made by the county or at the county's direction to determine, at a minimum, the fiscal integrity of financial transactions and reports, and the compliance with the terms of the grant agreement. The county shall schedule such audits with reasonable frequency, usually annually, but not less frequently than once every 2 years, considering the nature, size and complexity of the activity.

(g) A systematic method to assure timely and appropriate resolution of audit findings and recommendations.

(3) The following record and audit policies are applicable to all department grants and to all subagreements.

(a) The county shall maintain books, records, documents, and other evidence and accounting procedures and practices, sufficient to properly reflect:

1. The amount, receipt and disposition by the county of all assistance received for the project, including both state assistance and any matching share or cost sharing; and

2. The total costs of the project, including all direct and indirect costs of whatever nature incurred for the performance of the project for which the state grants have been awarded. In addition, contractors of grantees, including contractors for professional services, shall also maintain books, documents, papers, and records which are pertinent to a specific state grant award.

(b) The county's records and the records of contractors, including professional services contracts, shall be subject at all reasonable times to inspection, copying and audit by the department.

(c) The county and contractors of the county shall preserve and make their records available to the department:

1. Until expiration of 3 years from the date of final settlement, or

2. For such longer periods, if required by applicable statute or lawful requirement; or

3. If a program is terminated completely or partially, the records relating to the work terminated shall be preserved and made available for a period of 3 years from the date of any resulting final termination settlement; or

4. Records which relate to appeals, disputes, litigation on the settlement of claims arising out of the performance of the project for which funds were awarded, or costs and expenses of the project to which exception has been taken by the department or any of its duly authorized representatives, shall be retained until any appeals, litigation, claims or exceptions have been finally resolved.

(4) (a) Preaward or interim audits may be performed on applications and awards.

(b) A final audit shall be conducted after the submission of the final payment request. The time of the final audit shall be determined by the department and may be prior or subsequent to final settlement. Any settlement made prior to the final audit is subject to adjustment based on the audit. Counties and subcontractors of counties shall preserve and make their records available upon request.

**History:** Cr. Register, January, 1984, No. 337, eff. 2-1-84.

**NR 19.83 Termination.** The department shall, upon 30 days notice, terminate a county application and plan under s. 29.889, Stats., and this subchapter for any violation of the plan, the statute or rules or failure to properly report costs of the program or claims or comply with recordkeeping or audit procedures.

(1) A county may, upon 30 days notice to the department, terminate its application and plan under s. 29.889, Stats., and this subchapter.

(2) The department is responsible for payment of costs, in accordance with this subchapter, which are incurred for wildlife damage abatement prior to termination and for claims filed and approved by the county prior to that date.

**History:** Cr. Register, January, 1984, No. 337, eff. 2-1-84.

**NR 19.84 Permits to hunt Canada geese causing agricultural damage.** (1) **ISSUANCE AUTHORITY.** Contingent upon the establishment of a federal harvest quota and goose season framework valid for Wisconsin and in accordance with this section, the department may issue Canada goose damage hunting permits to agricultural crop land owners or lessees experiencing crop damage by Canada geese. Permittees may issue Canada goose damage hunter permits to other persons and authorize them to assist by hunting Canada geese causing damage.

(2) **DEFINITIONS.** For purpose of this section:

(a) "Goose hunting zone" means those established under s. NR 10.31.

(b) "Lands suitable for hunting" means as defined in s. NR 19.76 (4).

(3) **APPLICATION REQUIREMENT.** An applicant shall apply for a landowner or lessee permit to hunt Canada geese causing agricultural damage under this section on forms supplied by the department. A separate application is required for each parcel of non-contiguous crop lands.

**Note:** The forms may be obtained from department field stations or county wildlife damage program offices.

(4) **PERMIT ISSUANCE CRITERIA.** After determining that issuance or extension of permits under this section will not result in the harvest of Canada geese which exceeds the federally assigned quota, the department may issue goose damage hunting permits only to landowners or lessees meeting the following criteria:

(a) *Ownership of crops being damaged.* The applicant shall be an individual who owns or leases the crop lands being damaged or be one officer of the corporation that owns or leases the crop lands being damaged. No more than one landowner or lessee permit may be issued for a parcel of land at the same time.

(b) *Hunting access control.* Applicants shall possess the authority to control entry for goose hunting on the damaged crop lands and any contiguous lands under the same ownership which are suitable for hunting;

(c) *\$1,000 damage extent.* Damage to the applicant's crops shall be ongoing and either exceed or be likely to exceed \$1,000 in the current calendar year as determined by the county wildlife damage administrator.

(d) *Alternative abatement attempted.* The applicant shall comply with all alternative damage abatement techniques recommended by either:

1. The authorized county administrator for lands located in a county participating in a wildlife damage program under s. 29.889, Stats., or

2. The department for lands located in all other counties.

(e) *Normal crop management.* The applicant shall be managing the crop lands sustaining damage in accordance with methods normally used by no less than 50% of the other growers in the county. A permit may not be issued for crop lands when 90% or more of any row crop described in the application have been harvested in the county of application.

(f) *Permit and license compliance.* The applicant shall have complied with the conditions of any permit to hunt Canada geese causing damage issued to him or her within the 12 months immediately preceding application and may not currently have their hunting license privileges revoked.

(5) **PERMIT CONDITIONS.** Any landowner or lessee permit issued under this section is subject to the following conditions:

(a) *Public goose hunting.* 1. The permittee shall keep the damaged crop lands and any contiguous lands under the same owner-

ship which are suitable for hunting open to public goose hunting subject to subd. 2. during the current calendar year's goose hunting season.

2. Permittees may refuse access to goose hunters for reasonable cause. Reasonable cause may not be based on age, race, religion, color, handicap, sex, physical condition, development disability, creed, sexual orientation or national origin. However, the presence of at least 2 hunters per each 40 acres of land suitable for hunting shall constitute reasonable cause for refusal.

3. All lands required to be open to public goose hunting under subd. 1. may not be posted against hunting except to indicate that hunting is by permission only.

4. The landowner or lessee permittee may not charge any form of fee to a person hunting geese pursuant to a Canada goose damage permit issued under this section.

(b) *Hunter authorization.* Upon request by a person who meets the conditions in sub. (6), the permittee shall provide the person with a Canada goose damage hunting permit and no more than 2 carcass tags which will authorize the person to hunt geese causing damage within the authorized area subject to the conditions stated in the permit and this section unless all permits and carcass tags have been issued by the landowner or lessee permittee.

**Note:** The department will provide the permittee with Canada goose damage hunting permit forms.

(c) *Authorized area.* A permit issued under this section applies only to the lands described on the permit.

(d) *Kill limit.* The department may authorize the harvest of up to 20 Canada geese per landowner or lessee permit under the initial authorization depending on the acreage of damaged crop lands and numbers of Canada geese using the site.

(e) *Carcass tags.* The department shall issue to the landowner or lessee permittee one carcass tag for each goose authorized for harvest under the landowner or lessee permit. The landowner or lessee permittee may retain 2 carcass tags for his or her use and shall issue the remaining carcass tags free of charge to other hunters authorized to participate by the landowner or lessee.

(f) *Reporting.* The landowner or lessee permittee shall maintain a record of all hunters, including themselves, who participated and were issued carcass tags. Within 3 days following permit expiration, the landowner or lessee permittee shall return their permit, all hunter permit records, all unused carcass tags, and report the number of Canada geese harvested under permit to the department office indicated on the permit.

(g) *Permit length.* Permits shall remain in effect until all carcass tags issued under this section have been used, but not longer than 7 days, unless the department grants an extension under par. (h).

(h) *Permit extensions.* If, upon permit expiration, Canada geese continue to cause damage to the landowner or lessee's crops and the permittee has complied with the conditions of the permit, the department may:

1. Authorize the harvest of additional geese if all previously issued carcass tags have been used; and

2. Extend the effective dates of the permit to allow use of any subsequent or previously issued carcass tags.

(6) **CONDITIONS OF HUNTING.** No person may hunt or possess Canada geese under a permit issued under this section unless they have complied with the following conditions:

(a) *Licensing.* 1. The landowner or lessee permittee shall only be required to comply with the federal migratory bird stamp purchase and possession requirements.

2. All persons other than the landowner or lessee permittee who are authorized to participate under this section shall possess all state and federal licenses, permits and stamps required to hunt Canada geese within the goose hunting zone which contains the lands described on the permit.

(b) *Use of other permits.* All persons authorized to participate under this section shall have used any other goose hunting permit and carcass tags issued to them which are valid for the locations and effective dates specified in the landowner or lessee permit prior to using the carcass tags issued under this section.

(c) *Reporting.* All persons issued a permit under this section shall report the harvest of a Canada goose to the landowner or lessee permittee and mail a completed goose harvest report card to the department within 48 hours of the time of harvest.

(d) *Carcass tags.* All persons issued carcass tags under this section shall immediately peel off and affix the carcass tag identification number to the appropriate location on the forms provided by the department. Carcass tags are nontransferable.

(e) *Goose disposition.* No person may take or possess more than 2 Canada geese under each permit issued under this section.

(f) *Regulation compliance.* Except as otherwise authorized in this section, all participants shall comply with all state and federal waterfowl hunting regulations including tagging and the daily bag limit. Any geese taken by a person who has not complied fully with this section shall be considered illegally obtained.

(g) *Permit possession.* All persons hunting Canada geese under a permit issued under this section shall carry on his or her person the permit authorizing their participation.

**History:** Cr. Register, July, 1987, No. 379, eff. 8-1-87; am. (3) (f), July, 1988, No. 391, eff. 8-1-88; emerg. r. and recr., eff. 9-21-88; r. and recr. Register, January, 1989, No. 397, eff. 2-1-89; emerg. am. (3), (5) (e), r. and recr. (5) (c) and (d), r. (5) (g), cr. (5) (i), eff. 9-15-89.

### Subchapter III — Permitting the Use of Natural Bodies of Water as Fish Farms

**NR 19.90 Purpose and applicability.** (1) **PURPOSE.** The purpose of this subchapter is to establish fees, criteria and procedures to be used for permitting the use of natural bodies of water as fish farms as required under s. 29.733 (2) (f), Stats.

(2) **APPLICABILITY.** The provisions of this subchapter are applicable to:

(a) Fish farms and state-owned hatcheries located in or proposed to be located in freeze-out ponds.

(b) Natural bodies of water that were licensed as a private fish hatchery or licensed as a part of a private fish hatchery in 1997.

(c) A freeze-out pond or more than one freeze-out pond that is proposed as a fish farm at the time of application and is located on the same contiguous parcel of property under the same ownership or leasehold.

**History:** Cr. Register, April, 1999, No. 520, eff. 5-1-99; CR 03-030: **renum. from s. NR 16.70 Register October 2003 No. 574, eff. 11-1-03; correction made under s. 13.93 (2m) (b) 1., Stats., Register October 2003 No. 574.**

**NR 19.91 Definitions.** In this subchapter:

(1) “Barrier equipped” means the placement of a structure or device which prevents the movement of fish or bait from a fish farm to a natural body of water.

(1m) “Department fish hatching and rearing facilities” means all fish hatching and rearing waterbodies owned by the department, or leased or controlled through a cooperative agreement between the property owner and the department and where the department owns all the fish.

(2) “Freeze-out pond” has the meaning specified in s. 29.001 (29), Stats.

(3) “Natural body of water” means any spring, stream, pond, lake or wetland that was historically present in a natural state but may have been physically altered over time except any waterbody that has been permitted by the department under ch. 30 or 31, Stats., or ch. NR 299 water quality certification and not declared public under s. 30.19 (5), Stats.

(4) “Preexisting fish rearing facility” has the meaning specified in s. 29.001 (64), Stats.

(5) “Transfer of permit” means the conveyance of a permit from one party to another as a result of change in ownership or leasehold interest of a fish farm.

(6) “Wetland” has the meaning specified under s. 23.32, Stats.

**Note:** For purposes of this subchapter, a natural body of water does not include an artificial wetland, as defined under s. NR 103.02 (1m) or any swale, bermed area or excavation that is not located in a wetland, pond, lake, stream or spring that was historically present in a natural state, if the artificial wetland, swale, bermed area or excavation retains water as the result of human modification of the landscape or is constructed of man-made materials.

**History:** Cr. Register, April, 1999, No. 520, eff. 5-1-99; CR 01-128: cr. (1m), am. (3) Register June 2002 No. 558, eff. 7-1-02; CR 03-030: **renum. from s. NR 16.71 Register October 2003 No. 574, eff. 11-1-03; correction made under s. 13.93 (2m) (b) 1., Stats., Register October 2003 No. 574.**

**NR 19.92 Natural body of water permit application fees.** Permit application fees for the use of natural bodies of water for fish farms for a period of 10 years shall be as follows:

(1) Permit applicants for natural bodies of water reauthorized for use as fish farms under s. 29.733 (2) (b) and (c), Stats., shall pay a non-refundable renewal fee of \$50.00.

(2) Permit applicants for the initial use of freeze-out ponds as fish farms shall pay a \$500.00 non-refundable permit application fee.

(3) Recipients of permit transfers shall pay a non-refundable permit transfer fee of \$100.00. The expiration date of the original permit shall remain in effect for the transferred permit.

**History:** Cr. Register, April, 1999, No. 520, eff. 5-1-99; CR 03-030: **renum. from s. NR 16.72 Register October 2003 No. 574, eff. 11-1-03; correction made under s. 13.93 (2m) (b) 1., Stats., Register October 2003 No. 574.**

**NR 19.93 Applicant permit procedures for use of natural bodies of water for fish farms.** (1) For permits reauthorized under s. 29.733 (2) (b), Stats., the applicant shall complete and submit an application form provided by the department and the appropriate permit fee by January 1, 2003.

(2) For renewal of permits under s. 29.733 (2) (c), Stats., the applicant shall submit a new application to the department not more than 16 months before the expiration date of the permit granted under this chapter but not less than 2 months from the expiration date of the permit.

(3) Applications for permits under this subchapter shall include documents verifying all of the following:

(a) The land that is riparian to the body of water is owned, leased or controlled by the owners of the fish farm.

(b) None of the owners of the fish farm or of the riparian lands provides access to the body of water to the public by means of an easement or other right-of way or by means of a business open to the public, except that the owners of the fish farm may allow fishing by the public for a fee.

(c) Documentation that the natural body of water may be a freeze-out pond or that the natural body of water is a preexisting fish rearing facility that is barrier equipped.

(d) Copies of any other permits or authorization required by ch. 30 or 31, Stats., the Army corps of engineers and any other federal, state or local laws and zoning ordinances.

(e) All applicants shall identify the water source and quantity used for the fish farm and whether there is any discharge to a water of the state.

(f) Any other information requested by the department to determine whether a permit would or would not be granted by the department.

**Note:** Permit application forms are available from the Bureau of Fisheries Management and Habitat Protection, 101 South Webster St., P.O. Box 7921, Madison, WI 53707.

(4) The department shall issue a notice of intent to use a natural body of water as a fish hatching or rearing facility that was not being used as of January 1, 1998 by the department. The department shall comply with all provisions of s. NR 19.94 before it may use a natural body of water as a fish hatching or rearing facility.

**History:** Cr. Register, April, 1999, No. 520, eff. 5-1-99; CR 01-128: am. (1) Register June 2002 No. 558, eff. 7-1-02; CR 03-030: **renum. from s. NR 16.73 Regis-**



ter October 2003 No. 574, eff. 11-1-03; corrections made under s. 13.93 (2m) (b) 1. and 7., Stats., Register October 2003 No. 574.

**NR 19.94 Department determinations.** (1) The department shall issue a permit for use of a natural body of water as a fish farm or as a part of a fish farm if all requirements of this subchapter have been met and if the department determines that no substantial public interest exists in the body of water and that no public or private rights in the body of water will be adversely impacted. Among the factors considered, the following are indicative of public rights and interests including but not limited to:

- (a) Plant and wild animal habitat or plant and wild animal populations.
- (b) Threatened or endangered species or their habitat.
- (c) Water quality related functional values or uses of wetlands identified in s. NR 103.03.
- (d) Surface water quality standards identified in chs. NR 102, 104, 105, 106 and 107 and minimum water quantity requirements identified in s. 31.02, Stats.
- (e) The public's right to navigate and associated incidents to navigation including fishing, swimming, wading and canoeing.

(2) Fish farms may not introduce or propagate any non-native fish species if the department has determined that having the fish in that particular self-contained fish rearing facility or preexisting fish rearing facility will pose a risk of being detrimental to the waters of the state.

(3) Physical improvements or modifications to natural bodies of water used as fish farms shall comply with all federal, state and local laws and ordinances.

(4) Permits approved under this subchapter may be transferred to another party if the department determines that all conditions of this subchapter and s. 29.733, Stats., have been satisfied.

(5) The department shall renew under s. 29.733 (2) (c), Stats., a permit issued under s. 29.733 (2) (a) and (b), Stats., for use of a natural body of water as a fish farm or any part of a fish farm in a natural body of water unless the department determines there has

been a substantial adverse change affecting one or more of the criteria specified in sub. (1) (a) to (e) resulting from the operation of the fish farm. The department shall consider the historical condition of the natural water body prior to the presence and operation of the fish farm as part of their permit renewal decision under s. 29.733 (2) (c), Stats.

**Note:** Under this paragraph, historical conditions refer to known uses of the natural body of water prior to the inception of the fish farm.

(6) The department shall deny a permit for use of a natural body of water as a fish farm or as part of a fish farm if the requirements of this subchapter have not been met.

(6m) A single permit shall be issued for multiple natural bodies of water located on the same contiguous parcel of property under the same ownership or leasehold.

(7) Upon receipt of a complete permit application, the department shall either schedule a hearing or provide notice stating that it will proceed on the application without a hearing if no substantive written objections to issuance of the permit is received within 30 days after publication or notice. The notice shall be provided to news media and other persons according to the procedures in s. NR 27.07 (1) (b) and (c). The department may provide notice to other persons as it deems appropriate. The department will assume the cost of publishing the notice.

**History:** Cr. Register, April, 1999, No. 520, eff. 5-1-99; CR 01-128: r. and recr. (5), cr. (6m) Register June 2002 No. 558, eff. 7-1-02; CR 03-030: renum. from s. NR 16.74 Register October 2003 No. 574, eff. 11-1-03; corrections made under s. 13.93 (2m) (b) 1. and 7., Stats., Register October 2003 No. 574.

**NR 19.95 Enforcement.** The department may suspend or revoke a permit issued under this subchapter subject to the provisions of s. 29.733 (2) (e), Stats. A fish farmer operating a fish farm in a natural body of water as defined in s. NR 19.91 (3) without a valid permit under this subchapter may be penalized under s. 29.971, Stats.

**History:** Cr. Register, April, 1999, No. 520, eff. 5-1-99; CR 01-128: am. Register June 2002 No. 558, eff. 7-1-02; CR 03-030: renum. from s. NR 16.75 Register October 2003 No. 574, eff. 11-1-03; corrections made under s. 13.93 (2m) (b) 1. and 7., Stats., Register October 2003 No. 574.